

**Commonwealth of Massachusetts
Executive Office of Health and Human Services**

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold remote public hearings on Friday, May 19, 2023, at the respective times listed below, relative to the adoption of amendments to the following eight regulations.

Pursuant to M.G.L. Chapter 118E, Section 13D (f/k/a Chapter 257 of the Acts of 2008), EOHHS biennially establishes by regulation rates paid by governmental units to providers of social service programs. All amendments to the regulations below are proposed in accordance with this statute.

For the proposed amendments to the regulations below except 101 CMR 417.00: The cost adjustment factor (CAF) for all increased rates was determined by using baseline and prospective Massachusetts Economic Indicator data from IHS Economics – Fall 2022 Forecast, optimistic scenario data. The CAF reflects the period between the rates' base period (calendar year 2023 Q2) and the prospective period of fiscal years 2024 and 2025. In addition to the FY24 CAF, the rates for all services have been updated to include all staff salaries, benchmarked to the most recent Massachusetts Bureau of Labor Statistics (BLS) wages dated May 2021 at the 53rd percentile. The administrative allocation has been benchmarked to 12% and the tax and fringe rate has been benchmarked to 25.39%. This benchmark is derived from the MA Comptrollers FY23 approved rate less terminal leave and retirement. This benchmark includes an additional 2% to be used to promote workforce initiatives such as retirement benefits.

1. 9:00 a.m.: 101 CMR 417.00: Rates for Certain Elder Care Services. The rates for certain elder care services, specifically enhanced community options program (ECOP) direct services and home care program services direct services, have been redesigned and updated to include program-related costs for occupancy, no-shows, unfilled demand, and other program expenses. Occupancy and other program expense benchmarks were derived from the FY21 Uniform Financial Statements and Independent Auditor's Report (UFR) data and are program specific. No-show cost is determined using calendar year 2021 data and represents 10% of annual consumers, multiplied by the average hourly rate of direct service workers. Unfilled demand cost is determined using 2021 unfilled units multiplied by the estimated weighted average of service level rates for each relevant service. The rates include an increase by a cost adjustment factor (CAF) of 4.24%, effective July 1, 2023. The CAF was determined by using baseline and prospective Massachusetts Economic Indicator data from IHS Economics – Fall 2022 Forecast, optimistic scenario data. The CAF reflects the period between the rates' base period (calendar year 2022 Q4) and the prospective period of fiscal years 2024 and 2025. Staff salaries are benchmarked to the most recent Massachusetts Bureau of Labor Statistics (BLS) wages dated May 2021 at the 53rd percentile. The administrative allocation has been benchmarked to 12% and the tax and fringe rate has been benchmarked to 25.39%. Finally, the separate workforce initiative rates have been removed from the regulation because the workforce initiative goal of the rate review has been met. The total FY24 annualized cost to state government from the increase in rates established by this regulation is approximately \$29.5M, which represents a total increase of 14.49% over FY23 projected spending of approximately \$204M.

2. 10:00 a.m.: 101 CMR 414.00: Rates for Family Stabilization Services. The rates for Family Resource Center (FRC) services, purchased by DCF, are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The occupancy expenses are benchmarked to the FY21 Uniform Financial Statements and Independent Auditor's Report (UFR), and the other programmatic expenses are based on the purchasers'

recommendation and/or the prior benchmark inclusive of previous cost adjustment factors. The total projected annualized cost to state government from the increase in rates effective July 1, 2023, is approximately \$2.5 million, which represents an increase of 11.94% over FY23 projected spending of approximately \$21 million.

3. 10:30 a.m.: 101 CMR 415.00: Rates for Community-Based Day Support Services. The rates for community-based day support services (CBDS) and active treatment services are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The community-based day services programmatic expenses are benchmarked to the FY19 Uniform Financial Statements and Independent Auditor's Report (UFR) and incorporate the most recent review's cost adjustment factor. Additional community-based support services training funds per direct service FTE were added into the rates based on the purchasers' recommendation. The active treatment services rates have been revamped and consolidated into two rates, one rate for adults and the other for pediatrics. The active treatment programmatic expenses are benchmarked to the FY21 UFR. Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances, to be consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments to this regulation is approximately \$18.5 million, which represents an increase of 14.47% over FY23 projected spending of approximately \$128 million.

4. 11:00 a.m.: 101 CMR 419.00: Rates for Supported Employment Services. The rates for all the supported employment services are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The programmatic expenses are benchmarked to the FY19 Uniform Financial Statements and Independent Auditor's Report (UFR) and incorporate the cost adjustment factor from the most recent rate review. Additional training funds per direct service FTE were added into the rates based on the purchasers' recommendation. Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances, which is consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments is approximately \$7 million, which represents an increase of 14.40% over FY23 projected spending of approximately \$48.4 million.

5. 11:30 a.m.: 101 CMR 421.00: Rates for Adult Housing and Community Support Services. The rates for adult housing and community support services are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The adult housing and community support services programmatic expenses remain benchmarked to the FY19 Uniform Financial Statements and Independent Auditor's Report (UFR) or purchaser recommendations and incorporate the cost adjustment factor from the most recent rate review. Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances, which is consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments to this regulation is approximately \$2 million, which represents an increase of 13.85% over FY22 state spending of approximately \$16.2 million.

6. 12:00 p.m.: 101 CMR 428.00: Rates for Certain Independent Living Communities and Services. The rates for all the independent living communities and services are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The programmatic expenses are benchmarked to the FY21 Uniform Financial Statements and Independent Auditor's Report (UFR). Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances, which is consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments to this regulation is approximately \$675,959, which represents an increase of 8.91% over FY23 projected spending of approximately \$7.5 million.

7. 12:30 p.m.: 101 CMR 431.00: Rates for Certain Respite Services. The rates for certain respite services are being updated to include an increase by a cost adjustment factor (CAF) of

2.78%, effective July 1, 2023. The programmatic expenses are benchmarked to the FY21 Uniform Financial Statements and Independent Auditor's Report (UFR). Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances, which is consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments to this regulation is approximately \$2.4 million, which represents an increase of 16.04% over FY23 projected spending of approximately \$15.2 million.

8. 1:00 p.m.: 101 CMR 429.00: Rates for Certain Sexual and Domestic Violence Services.

The rates for all the sexual and domestic violence services are being updated to include an increase by a cost adjustment factor (CAF) of 2.78%, effective July 1, 2023. The direct care positions have all been recategorized as direct care III positions and the programmatic costs have been benchmarked to the FY21 Uniform Financial Statements and Independent Auditor's Report (UFR) weighted average. The rate for sexual and domestic violence legal advocacy is being removed from the regulation at this time as it is not used by the purchasing agencies. Lastly, rate provision language has been incorporated into this regulation to allow for administrative adjustments for extraordinary circumstances to be consistent with other Chapter 257 rate regulations. The total annualized cost to state government from the proposed amendments is \$3,865,208, which represents an increase of 11.69% over FY22 spending of approximately \$33 million.

The proposed regulations contain rates effective for dates of service on or after July 1, 2023. There is no fiscal impact on cities and towns.

To register to testify at any of the hearings and to get instructions on how to join the hearing online, go to www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings. To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to ehs-regulations@mass.gov as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on Friday, May 19, 2023. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current drafts of the proposed regulations, go to www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171. To view or download supporting materials, go to www.mass.gov/service-details/proposed-regulations-supporting-materials.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at ADAAccommodations@mass.gov or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed regulations taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings.

April 28, 2023